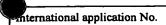


PCT 09/936,719

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION		cation of Transmittal of International Examination Report (Form PCT/IPEA/416)			
SM5164	150 150					
International application No. PCT/EP00/02137	International filing date (day/n 10 March 2000 (10.0		Priority date (day/month/year) 16 March 1999 (16.03.99)			
International Patent Classification (IPC) or n C09D 13/00, A61K 7/027, 7/032	lational classification and IPC		10 Main 1995 (16:03:95)			
Applicant SCHW	AN-STABILO COSMET	ICS GMBH	& CO.			
Authority and is transmitted to the a	applicant according to Article 36	•	International Preliminary Examining			
been amended and are the b (see Rule 70.16 and Section	nied by ANNEXES, i.e., sheets openies for this report and/or sheets a 607 of the Administrative Instr	of the descript containing re	ion, claims and/or drawings which have ectifications made before this Authority			
	total of sheets.					
 This report contains indications rela 	ting to the following items:					
I Basis of the report	ţ					
II Priority						
III Non-establishmen	at of opinion with regard to nove	lty, inventive :	step and industrial applicability			
IV Lack of unity of in	nvention					
Reasoned stateme		rd to novelty, i	inventive step or industrial applicability;			
VI Certain document	s cited					
VII Certain defects in	Contain defeats in the international application					
	ons on the international applicati	on				
	·					
Date of submission of the demand		Date of completion of this report				
21 September 2000 (21	.09.00)	05	June 2001 (05.06.2001)			
Name and mailing address of the IPEA/EP	Autho	rized officer				
Facsimile No.	Telepl	hone No.				



INTERNATIONAL PRELIMINARY EXAMINATION REPORT

PCT/EP00/02137

I. Basis of the		·	
1. This report under Article	has been drawn e 14 are referred to	n the basis of (Replacement sheets in this report as "originally filed"	which have been furnished to the receiving Office in response to an invitation and are not annexed to the report since they do not contain amendments.):
\boxtimes		application as originally filed.	
\boxtimes	the description,	pages1-14	
		pages	
			, filed with the letter of,
		pages	, filed with the letter of ·
	the claims,	Nos. 1-17	_ , as originally filed,
		Nos.	, as amended under Article 19,
		Nos	_ , filed with the demand,
		Nos	, filed with the letter of,
		Nos	, filed with the letter of
	the drawings,	sheets/fig	_ , as originally filed,
		sheets/fig	_ , filed with the demand,
		sheets/fig	_ , filed with the letter of ,
		sheets/fig	_ , filed with the letter of
2. The amend	lments have result	ed in the cancellation of:	
	the description,	pages	
	the claims,	Nos	
	the drawings,	sheets/fig	
o. Lad to g	s report has been e o beyond the discl observations, if n	osure as filed, as indicated in the	nendments had not been made, since they have been considered e Supplemental Box (Rule 70.2(c)).

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

V.	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
	citations and explanations supporting such statement

citations and explanations supporting such statement				
. Statement				
Novelty (N)	Claims	7, 8, 12, 15, 17	YES	
	Claims	1-6, 9, 10, 11, 13, 14 and 16	- NO	
Inventive step (IS)	Claims		YES	
	Claims	7, 8, 12, 15 and 17	NO	
Industrial applicability (IA)	Claims	1-17	_ YES	
	Claims		NO	

2. Citations and explanations

- 1.) Reference is made to the following documents:
 - D1 = EP-A-0 861 657 (L'OREAL), 2 September 1998 (1998-09-02) mentioned in the application
 - D2 = WO-A-95/11000 (THE PROCTER & GAMBLE COMPANY), 27 April 1995 (1995-04-27)
- 2.) D1 (page 4, lines 24-53; page 7, lines 41-44; Claim 16) discloses cosmetic coloring sticks, e.g., lipsticks, which contain an ethyl cellulose soluble in organic solvents, such as glycol esters. Thus, D1 appears to be prejudicial to the novelty of Claims 11, 13, 14 and 16.

The process in Claims 1-6, 9 and 10 also appears to be at least implicitly disclosed because how else could a coloring sticks disclosed in D1 be produced except through "the addition of alkyl cellulose to the stick composition" in an unspecified way.

Hence, Claims 1-6, 9, 10, 11, 13, 14 and 16 lack the novelty required in PCT Article 33(2).

2a) Lipsticks which contain ethyl cellulose and fatty

alcohols and/or fatty acid esters are disclosed in the claims in D2, see in particular Claims 1, 6 and 10. Although the solubility of the cellulose derivative in the fatty alcohols is not precisely specified, it is assumed that at least part of the cellulose is soluble under conditions corresponding to the application (see Claim 5 in the application). Consequently, D2 is also prejudicial to the novelty of the above-indicated claims.

3). Claims 7, 8, 12, 15 and 17 are novel over D1 and D2 because the solvents explicitly claimed, the length and diameter of the sticks, and the use for special lipsticks, e.g., contouring sticks, are not precisely defined in D1 and D2.

An unexpected technical effect caused by these distinguishing features in light of D1 and D2 has not been claimed or shown. As a result, the application addresses the problem of making available further coloring sticks and the processes for their production. That problem has been solved in a way that does not involve an inventive step by experimentation with solvents and the stick dimensions not explicitly mentioned in the prior art. Consequently, Claims 7, 8, 12, 15 and 17 do not satisfy the requirements of PCT Article 33(3) regarding inventive step.